

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,  
MARISSA BLAIR, APRIL MUÑIZ,  
MARCUS MARTIN, NATALIE ROMERO,  
CHELSEA ALVARADO, JOHN DOE, and  
THOMAS BAKER,

Plaintiffs,

v.

JASON KESSLER, et al.,

Defendants.

**Civil Action No. 3:17-cv-00072-NKM**

**JURY TRIAL DEMANDED**

**PLAINTIFFS' RESPONSE TO BURT COLUCCI'S  
EMAIL TO THE COURT**

Plaintiffs file this response to the email sent by Burt Colucci, the “Commander” of Defendant National Socialist Movement (“NSM”), on June 25, 2020, at 3:45 a.m., which the Court struck from the docket as improperly filed on June 26, 2020. *See* ECF Nos. 781, 782. In his email, Mr. Colucci asked the Court whether he has “any rights in this case” and claimed that he and NSM lacked notice of Plaintiffs’ Motion to Compel Discovery from NSM, which Plaintiffs filed on March 11, 2020, and which the Court granted on June 23, 2020. *See* ECF Nos. 674, 774. Plaintiffs agree that Mr. Colucci’s email was improperly filed. In addition, Mr. Colucci has made several false assertions in his communication with the Court, and Plaintiffs write to correct the record.

Mr. Colucci appears to claim that he and NSM lacked notice and an opportunity to respond to Plaintiffs’ motion to compel because he is “not receiving any legal documentation” and has “no council [sic] to advise me on how to proceed.” To the contrary, as the Court knows, NSM is represented by counsel. Mr. Edward ReBrook has represented NSM since March 2019. *See* ECF

Nos. 451, 742, 774. Mr. Colucci also claims that he and NSM have had “absolutely no contact with Mr. ReBrook since December 2019.” That is similarly untrue for at least the reasons set forth below.

*First*, on May 28, 2020, Mr. ReBrook contacted Mr. Colucci to request that Mr. Colucci comply with his discovery obligations by providing information on potential NSM custodians, providing credentials to NSM’s social media accounts, and turning over NSM electronic devices to the discovery vendor for imaging. Mr. Colucci responded and told Mr. ReBrook to “no longer contact me regarding these matters.” *See* ReBrook Email to Phillips and Bloch, May 28, 2020 (attached as Exhibit A).

*Second*, on April 17, 2020, Mr. ReBrook’s assistant, Acacia Dietz, provided Mr. Colucci with filings in this case; informed Mr. Colucci that “the judge will most likely hold the Florida nonprofit NSM as the same NSM named in this current litigation” and that “you/NSM will be required to cooperate/participate in this discovery process”; and asked Mr. Colucci “to cooperate and participate in this litigation and discovery process.” ECF No. 712-1 at 2-3. Mr. Colucci responded, “Other than you agreeing to listen in on behalf of the NSM Detroit at my deposition, have I retained you?” *Id.* at 2.

*Third*, in a filing on April 20, 2020, Mr. ReBrook represented to the Court that he has made “efforts to persuade Mr. Colucci” that “the Florida NSM would be required to participate and cooperate with discovery,” and that Mr. ReBrook has “attempted to represent the NSM in this litigation for the past year with little to no cooperation from its current leadership.” ECF No. 712 at 2.

Mr. Colucci should not be excused from his and NSM's discovery obligations based on the false claim that he is not receiving notice or due process when he has purposefully chosen to be absent from the litigation.

Dated: June 26, 2020

Respectfully submitted,

/s/ Robert T. Cahill

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## CERTIFICATE OF SERVICE

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I further hereby certify that on June 26, 2020, I also served the following non-ECF participants, via electronic mail, as follows:

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